

FILED

IN THE COURT OF COMMON PLEAS
LAKE COUNTY, OHIO

2021 JUN 11 AM 11:57

ANDREW EMINGER
35905 Chardon Road
Willoughby, Ohio 44094

Plaintiff,

v.

MENARD, INC.
c/o Corporation Service Company
50 West Broad St., Suite 1330
Columbus, Ohio 43215

Defendant.

FAITH ANDREWS
LAKE CO. CLERK OF COURT

COMPLAINT
WITH JURY DEMAND

21CV000699
JOHN P. O'DONNELL

Plaintiff Andrew Eminger, by and through undersigned Counsel, submits the following Complaint for damages against Defendant Menard, Inc., and alleges as follows:

THE PARTIES

1. Plaintiff Andrew Eminger is a resident of Ohio at the captioned address.
2. Defendant Menard, Inc. ("Menard"), is a Wisconsin corporation, registered with the Secretary of State to do business in Ohio, where it does substantial business.
3. At all relevant times, Defendant conducted retail operations at the Menard store located at 9600 Diamond Centre Road in Mentor, Ohio 44060.
4. The incident which is the subject of this Complaint occurred on the Menard premises in Lake County, Ohio. Therefore, this Court is a proper venue.

THE FACTS

5. On the morning of January 20, 2021, Plaintiff Andrew Eminger was walking into the customer entrance of the Menard store at 9600 Diamond Centre Road in Mentor, Ohio.

EXHIBIT

tabbles

A

6. While walking into the store as a business invitee, Mr. Eminger was struck on the head, neck, and shoulders by ice and snow that became dislodged from the unguarded, sloping metallic roof over the customer entrance. As a result, Mr. Eminger suffered very serious physical injuries that have required substantial medical intervention and continued care, and which have prevented him from working his job as he had before.

CAUSE OF ACTION

7. Plaintiff incorporates all allegations contained in the previous paragraphs as if fully rewritten herein.

8. Menard owed Mr. Eminger and other invitees a duty of care to keep its property reasonably safe to customers, visitors, and frequenters, and to keep its entrance protected from falling ice and snow. Menard breached its duty by failing to remove dangerous ice and snow from the roof over the entrance, failing to erect an awning or other appropriate device to protect those entering the store from the ice and snow overhead, and/or by failing to otherwise design or maintain the roof over the entrance in a way that more reasonably reduced the risk that a customer would be struck by chunks of ice and snow that gathered on and then dislodged from the sloping metallic roof.

9. As a direct and proximate result of Menard's negligence, Mr. Eminger has sustained harms, losses, and damages, including (but not limited to) physical injuries, medical costs, lost earnings, and other economic and non-economic damages.

PRAYER FOR RELIEF

Plaintiff Andrew Eminger demands judgment against Defendant in an amount in excess of \$25,000 on his complaint for compensatory damages, as well as any other appropriate relief, including pre- or post-judgment interest, attorney's fees, or costs.

JURY DEMAND

Plaintiff demands a trial by jury.

Respectfully submitted,

s/ Drew Legando

Drew Legando (0084209)

MERRIMAN LEGANDO WILLIAMS & KLANG, LLC

1360 West 9th Street, Suite 200

Cleveland, Ohio 44113

T. (216) 522-9000

F. (216) 522-9007

E. drew@merrimanlegal.com

Counsel for Plaintiff

**COMMON PLEAS COURT
LAKE COUNTY, OHIO**
Case Designation Form Loc. R. II(C)(1)

For all cases except

Andrew Eminger

Case

21CV000699**VS****JOHN P. O'DONNELL**

Menard, Inc.

Judge

Per LOC R. II (C)(3), refiling of cases previously dismissed under Civ. R. 41 must have a designation upon the face of the complaint that the action is being refiled. The word "REFILING" must appear in upper case letter under the word "COMPLAINT". Directly beneath the word "REFILING" the complaint shall identify the case number of this dismissed action. **Former Case no.** _____

Case Categories (Mark one category only)**Administrative Appeal (Specific ORC Sec.)** Section _____

Consumer Sales Practices: Actions commenced under applicable section of ORC Chapters: 109, 1315, 1317, 1321, 1322, 1333, 1334, 1345, 1349, 3953, 4505, 4549, 4710, 4712, 4719, 4775, 4905 or 5311

☐ **Contract or Quasi Contract**☐ **Criminal**☐ **Declaratory Judgment***See Foreclosure Case Designation Form*☐ **Foreign Judgment**☐ **Malpractice (specify) _____**☐ **Credit Card (CI)**☒ **Personal Injury**☐ **Product Liability**☐ **Professional Tort**☐ **Provisional Remedy (Replevin, Attachment, Garnishment)**☐ **Workers Compensation**☐ **Other Tort _____**☐ **Other Civil _____**

2021 JUN 11 AM 11:57
FAITH ANDREWS
LAKE CO. CLERK OF COURT

FILED

The designation "money only" may not be used if one of the above specific categories is applicable. Further, the caption shall note any statutory provision that is unique to the particulate cause and controls the time within which the case is to proceed, once filed. (EX. Miscellaneous – Contest of Election (ORC Section 3515.10 – Hearing within 30 days).)

Revised Code Section unique to this particular cause which controls the time within which the case is to proceed: _____


Signature

Drew Legando 0084209

Printed name & Registration No.

Merriman Legando Williams & Klang, LLC

Firm name

1360 West 9th Street, Suite 200

Address

216-522-9000

Phone number

**FAITH ANDREWS
CLERK OF COURTS
LAKE COUNTY COMMON PLEAS COURT**

ATTENTION ALL PARTIES TO THE CASE

Whether you are represented by an Attorney or representing yourself in this legal action, LAKE COUNTY LOCAL COURT RULES require that all participants familiarize themselves with, and follow the requirements of each court.

Pre-trial Orders and Procedures are available on our website at

www.lakecountyohio.gov/coc

Select Forms and Downloads

Scroll to Pre-trial Orders/ Orders of Procedure

Select the appropriate pre-trial order/procedure for YOUR Respective case and Judge.

If you are unable to access or unclear as to which pre-trial Order/procedure applies to you, contact the Office of the Clerk of Courts, New Case Department (440.350.2657) during normal business hours and a copy will be immediately mailed to you.

FAITH ANDREWS, CLERK OF COURTS